IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 27353 of 1995

Between:

THOTA SIVAIAH S/O.VENKAIAH
R/O.BADHRACHALAM, KHAMMAM.

..... PETITIONER

AND

THE EXECUTIVE OFFICER
THE BADRACHALAM GRAMPANCHYAT, BADRACHALAM,
KHAMMAM DIST.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ order or direction more in the nature of mandamus, declaring the action of the respondents in issuing the proceedings in his Rc.No.P2/761/92 dt.16-11-95 directing the petitioner to evict the house with in 10 days and to hand over the land to one Smt.Pushpabai as illegal and void and consequently to direct the respondent to refrain from in any way interfering with the possession and enjoyment of the house from which the petitioner is sought to be evicted under the impugned notice dated 16-11-95.

Counsel for the Petitioner: MR.M.R.K.CHOWDARY

Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORAL ORDER:

This writ petition is filed questioning notice dated 16-11-1995 issued by the Executive Officer, Bhadrachalam Gram Panchayat, Bhadrachalam.

The impugned notice is issued directing the petitioner to vacate the premises in question and hand over the same to one Smt.Pushpabao, referring to an earlier order of this court in W.P.No.5108 of 1983 stating that in the said order the petitioner was held to have encroached the land in question, belonging to Smt.Guvvala Pushapbai. But, a perusal of order in W.P.No.5108 of 1983 shows that directions were issued to the Executive Officer of the Gram Panchayat to give an opportunity before any steps are taken for demolition of the building of the petitioner. There was no order for delivery of possession to any third party. Further, there is no such power vested in the respondent under the provisions of the Gram Panchayat Act or the Rules made there under.

Though the writ petition is of the year 1995, counter affidavit is not filed so far, in spite of granting several adjournments.

In that view of the matter and for the foregoing reasons, the impugned notice is liable to be set aside and is accordingly set aside.

The writ petition is allowed to the extent indicated above. No costs.

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8-2-2005

asp

That Rule Nisi has been made absolute as above

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Eighth day of July, Two Thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Executive Officer
   Badrachalam Grampanchyat, Badrachalam,
   Khammam District

2. Two C.Cs. to the G.P. for Panchayat Raj and Rural Development, High Court Buildings (OUT)

3. Two C.D. copies